

Remarks

Summary of the Office Action

Claims 1-6, 8-11, 13-46, 50-56, 58, 60-85, 87-90, 92-125, 129-135, 137, 139-164, 166-169, 171-204, 208-214, 216, and 218-237 are pending in this application.

Claims 1-6, 9-11, 13-46, 50-56, 60-85, 88-90, 92-135, 139-164, 167-169, 171-204, 208-214, and 218-237 are rejected under 35 U.S.C. § 102(e) as being anticipated by Maissel et al. U.S. Patent No. 6,637,029 (hereinafter "Maissel").

Claims 8, 58, 87, 137, 166, and 216 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Maissel in view of Hendricks et al. U.S. Patent No. 6,539,548 (hereinafter "Hendricks").

These rejections are respectfully traversed.

Summary of the Examiner Interview

A telephonic interview was conducted with Examiner Annan Q. Shang on November 14, 2006. Applicants' representative, Michael J. Chasan (Reg. No. 54,026) wishes to thank the Examiner for the courtesies extended during the interview. During the interview, the 35 U.S.C. § 102(e)

rejections of independent claims 1, 29, and 51 in the present Office Action were discussed.

Applicants' Reply to the Prior Art Rejections

A. Independent Claims 1, 80, and 159

Independent claim 1 is directed toward a method for measuring audience size information based on playbacks of a recorded program. Indications of playbacks of the recorded program are received from a plurality of audience members. In response to receiving these indications, audience size information for the recorded program is updated. The audience size information is then provided to at least one user within an interactive television application.

Maissel refers to computing real-time information on a proportion or percentage of the audience viewing a particular program at a head-end (see Maissel, col. 19, lines 21-23). The real-time information may then be transmitted to subscribers and information derived from the transmitted information may then be displayed on a display apparatus (see Maissel, col. 19, lines 27-30). Any appropriate method of displaying the display information, such as displaying a bar graph or other graph indicating the program presently being viewed by the user or

the proportion currently viewing some other program may be used (see Maissel, col. 19, lines 38-43).

In addition, Maissel refers to an unsolicited alert that indicates a proportion of an audience currently viewing a program (see Maissel, col. 5, lines 58-61). The program may include a program currently being viewed by a viewer (see Maissel, col. 5, lines 62-64), as well as a program not currently being viewed by a viewer (see Maissel, col. 5, lines 65-67).

The Examiner contends that Maissel shows all of the features of applicants' independent claim 1. However, applicants respectfully disagree with the Examiner's contention. Maissel only refers to a system that computes real-time information on a proportion or percentage of the audience viewing a particular program as well as other available programs. Maissel does not show providing audience information for programming other than currently broadcast programs (e.g. recorded programs), or updating audience size information for a recorded program based on indications of playbacks of a recorded program, as specified by applicants' independent claim 1.

In fact, the portions of Maissel cited by the Examiner demonstrate that Maissel's concept of updating audience information is limited to programs currently broadcast. With the advent of personal video recording technology, Maissel's traditional method for audience measuring is no longer optimal for measuring audience size for future viewing of programs from personal recordings. Applicants' independent claim 1 patentably improves on Maissel's basic system for providing audience size information by updating audience information based on playbacks of a recorded program.

Furthermore, the portion of Maissel relied upon by the Examiner that allegedly refers to this feature of applicant's claim states that an alert including audience size information includes "a program not currently being viewed by the viewer" (see Maissel col. 5, lines 65-67). However, this portion of Maissel does not show providing audience information for recorded programming. Rather, Maissel is only referring to a "proportion [of the audience] currently viewing some other program" (see Maissel, column 19, lines 38-43). Thus, Maissel only refers to providing audience size information based only on programs currently broadcast. Nowhere in the specification

does Maissel refer to providing audience information for recorded programming.

For at least the above reasons, Maissel fails to show or suggest all of the feature of applicants' independent claim 1. Applicants respectfully submit that the rejection of independent claim 1 should be withdrawn. The rejection of independent claims 80 and 159 should also be withdrawn for at least the same reasons.

B. Independent Claims 29, 108, and 187

Independent claim 29 is directed toward a method for providing audience size information with program listings in an interactive television application. Indications that a user wishes to access one or more program listings are received from a user. Audience size information for a program corresponding to at least one of the program listings is calculated. The calculating is based on a graded approach of assigning a predetermined quantity of points to each of a plurality of actions performed by a plurality of audience members. Program listings that include audience size information are provided in response to the indication from the user.

Maissel shows that the real time information on a proportion or percentage of the audience may be computed and displayed as an alert (column 19, lines 31-38), or as a graph (column 19, lines 38-43). The Examiner contends that these portions of Maissel show all of the features of applicants' independent claim 29.

Applicants respectfully submit that Maissel does not show or suggest all of the elements of independent claim 29. In fact, applicants' approach improves upon Maissel by assigning a predetermined quantity of points to the actions of audience members to more accurately calculate audience size information for programs. For example, audience information may be based on the user's selected actions with a personal video recorder (PVR) device, such as playing, pausing, rewinding, and fast-forwarding previously recorded media (see specification, paragraph 100, page 39). In addition, a graded approach, including a point system, may be used to determine the audience information. The amount of points assigned to particular actions may be predetermined. For example, a low rating (a low amount of points) may be assigned to a program when the program is recorded, a higher rating (a higher amount of points) may be assigned when the program is played back for

the first time, and an even higher rating (the highest amount of points) may be assigned to each additional time the program is played back (see specification, paragraph 105, pages 40-41). None of the passages of Maissel cited by the Examiner show that audience size information is calculated based on such a predetermined assignment of points to actions.

For at least the above reasons, Maissel fails to show or suggest all of the feature of applicants' independent claim 29. Applicants respectfully submit that the rejection of independent claim 29 should be withdrawn. The rejection of independent claims 108 and 187 should also be withdrawn for at least the same reasons.

C. Independent Claims 51, 130, and 209

Independent claim 51 is directed toward a method for measuring audience size information for an upcoming program in an interactive application. Indications to perform actions related to the upcoming program are received from a plurality of audience members. Audience size information is updated in response to receiving the indications. Audience size information is then provided to at least one user within the interactive television application.

As described above with respect to applicants' independent claim 1, Maissel only refers to providing audience size information based on programs available to the viewer in real-time. Therefore, Maissel does not show updating audience size information based on users viewing upcoming programs.

For at least the above reasons, Maissel fails to show or suggest all of the feature of applicants' independent claim 51. Applicants respectfully submit that the rejection of independent claim 51 should be withdrawn. The rejection of independent claims 130 and 209 should also be withdrawn for at least the same reasons.

D. Dependent Claims

Claims 2-6, 8-11, 13-28, 30-46, 50, 52-56, 58, 60-79, 81-85, 87-90, 92-107, 109-125, 129, 131-135, 137, 139-158, 160-164, 166-169, 171-186, 188-204, 208, 210-214, 216, and 218-237 depend on independent claims 1, 29, 51, 80, 108, 130, 159, 187, and 209, and are allowable at least because claims 1, 29, 51, 80, 108, 130, 159, 187, and 209 are allowable.

Conclusion

For at least the foregoing reasons, applicant respectfully submits that this application is in condition for allowance.

Accordingly, prompt reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Michael Chasan', is written over a horizontal line.

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